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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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JUN 12 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Request for Review)

by Integrity Communications)

of the Decision of the)

Universal Service Administrative Company)

CC Docket No. 97-21

CC Docket No. 96-45

PETITION FOR REVIEW

INTEGRITY COMMUNICATIONS

Walter Steimel
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June 12, 2003

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PETITION FOR REVIEW

Integrity Communications, Ltd. ("Integrity Communications") hereby requests that the Federal Communications Commission ("FCC") reconsider and reverse the denial of funding decision that the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") issued on April 16, 2003, on the request of San Diego I.S.D. ("San Diego") for internal connections.

I. INTRODUCTION

Integrity Communications seeks a review of SLD's decision denying San Diego's application for E-Rate funding for year 2002-2003 (Funding Year Five). In that decision USAC determined that San Diego failed to demonstrate that it had secured access to the funds needed to pay its portion of the E-Rate program, and failed to show that sufficient support services existed.

II. SUMMARY OF FACTS AND ARGUMENT

Integrity Communications is a service provider of voice, video and data communications and internal connections, and operates throughout the state of Texas. *San Diego* is a school district located in San Diego, Texas.

On January 14, 2002, *San Diego* submitted Form 471 to SLD in order to apply for E-Rate Program funding. *San Diego* designated *Integrity Communications* as the service provider it was going to utilize for the installation of internal connections. After Form 471 was submitted, SLD contacted *San Diego* and *Integrity Communications* numerous times inquiring about *San Diego*'s application. *San Diego* and *Integrity Communications* responded thoroughly to each question posed by SLD, within the time lines set forth by SLD. The inquiries relevant to this appeal include the following.

On March 11, 2002, SLD contacted *San Diego* seeking information on its telecommunication requests and new school sites. *San Diego* submitted all necessary information, including complete descriptions of network infrastructure, internal wiring, network maintenance and file servers. On March 12, 2002, *Integrity Communications* received email notification that this portion of the application had been reviewed and cleared.

Two months later, on May 22, 2002, SLD contacted *San Diego* with a Selective Service Review along with a request for Item 25 certification information. *San Diego* returned all requested documentation to USAC within required deadlines.

On September 13, 2002, SLD requested information related to whether San Diego effectively allocated the appropriate resources to support the E-Rate program. San Diego prepared a complete response to SLD's request, including a copy of its 2002-2003 Budget Proposal dated August 15, 2002. In addition, Ms. Casas, Director of Finance at San Diego, sent a letter via fax on September 18, 2002, to Mr. Andy Gruber, the Selective Reviewer, explaining the funds balance on the budget and additional funds availability. Ms. Casas' letter further stated that if anything else was required she would welcome the call. We have attached copies of the budget and letter to this petition. San Diego also specifically told SLD that \$149,000, which is equal to San Diego's share of the contribution to the E-Rate program, would be included and provided for in its budget.

Despite the efforts of San Diego and Integrity Communications to provide SLD with the information it requested, on December 3, 2002, SLD denied the funding request for Year Five funding stating that

1) BUDGET: You did not demonstrate that you have the financial resources on hand to pay for the non-discounted charges on your application, as well as the rest of the items that you outlined in your technology budget insufficient support services.

San Diego appealed the denial decision directly to USAC according to posted program rules, and on April 16, 2003, USAC denied the district's appeal, again finding that it had not demonstrated that it had the financial resources on hand to pay for the non-discounted charges on its application.

Contrary to USAC's decision, San Diego has adequately replied to each of SLD's requests for information, and demonstrated that the required funds are available.

We believe that the holding in Beginning with Children Charter School and Yeshiva Karlin-Stolin, DA 03-0245 (2003) supports a finding that San Diego has demonstrated that it has adequate resources on hand, and a conclusion by the FCC that San Diego's application should be granted without further review, or at a minimum, remanding of the decision to USAC to allow San Diego to provide any additional assurances which may be required. In Children Charter School, the FCC found reviewed two cases where SLD denied Funding Year 2001 requests for discounted services under the schools and libraries universal service support mechanism because the applicant failed to demonstrate an ability to pay its share of the costs of the services. Id. at ¶ 1. The FCC noted that an applicant is required to demonstrate that it has the necessary funds to pay its share of service costs. Id. at ¶ 8. In reviewing the proper treatment which should be accorded by USAC when there are questions of funding availability, the FCC stated:

Under its normal operating procedures, however, when SLD identifies problems with the budget or other initial documentation proffered by an applicant to demonstrate ability to pay, it generally contacts the applicant and provides an opportunity to remedy the difficulty. For example, in instances where the budget or other documentation initially submitted does not demonstrate that sufficient funds have been secured to pay for all the services, an applicant is given an opportunity to submit further documentation on this issue. Alternatively, if the budget demonstrates sufficient funds but also reveals an overall budget deficit, an applicant is permitted to demonstrate how additional revenues will be obtained to cover the deficit or to stipulate to other expenses that will be eliminated.

Id. at ¶ 9.

The FCC held that where an applicant has submitted a budget that does not adequately demonstrate ability to pay, providing an applicant an opportunity to address the problem will provide a better balance between the need for administrative efficiency

and the interests of eligible schools and libraries in receiving discounts. Id. at ¶ 17. Accordingly, the FCC remanded the two applications to SLD for further action.

In the current instance, San Diego made the requisite showing, and invited USAC to contact it for any additional information it may need. Instead, USAC denied the application without further contact with San Diego. During the USAC review of San Diego's request for funding, USAC asked several questions related to whether San Diego had access to the funds required to meet its financial commitment to this program. In response to USAC's inquiries, San Diego sent a proposed budget to USAC. The budget submitted on September 13, 2002, showed San Diego operating at slight deficits of <\$449,026> in 1999-2000, and <\$556,824> in 2000-01. While it showed 2001-2002 actual numbers running at a surplus of \$4,270,154, it showed 2002-03 running at a deficit of <\$7,237,500>.

It is apparent from subsequent correspondence between San Diego and USAC that USAC began to question whether San Diego could have the funds available to meet its USAC construction funding obligations, or whether these funds would be used to pay the subsequent deficit. In response, Ms. Casas sent a follow up letter on September 18, 2002, that stated “[t]he reason our expenditures exceed our revenues is because the money received for capital projects was received last year. The money is out of our fund balance. Our fund balance as of August 31, 2001 is \$4,826,409. We are in the process of selling our bonds and that should be an additional \$3,000,000 in revenue.”

It is apparent that the addition of the fund balance and the bond issue provided enough capital for San Diego to meet its 2002-2003 budget and provide an additional surplus of \$600,000 – more than enough to meet San Diego's required payment of ten

percent (10%), or approximately \$149,000. San Diego clearly stated that it had sufficient funds set aside to cover its cost of the program, and USAC inappropriately denied San Diego's request.

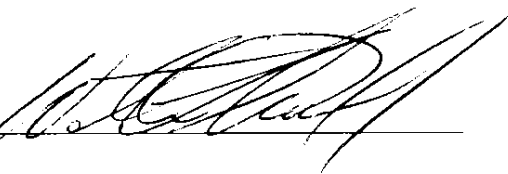
Integrity Communications respectfully requests that SLD reconsider San Diego's application for E-Rate funding, and either grant San Diego's request, or remand San Diego's case to USAC with instructions to either grant or permit San Diego to make any additional necessary demonstrations. It is apparent that San Diego has sufficient support resources and the funds needed to pay its portion of the E-Rate charges, and is entitled to funding on its request.

III. Conclusion

On review, Petitioner requests that SLD grant Integrity Communications and San Diego's application for Year Five E-Rate funding.

Respectfully submitted,

INTEGRITY COMMUNICATIONS

By: 

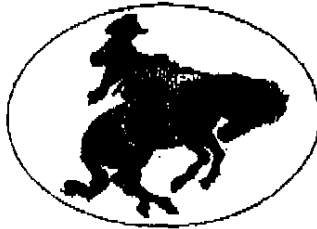
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PEIMS, Technologies, CATE,
Textbook Coordinator
PHONE: (361) 279-3382 X2633
FAX: (361) 279-2267

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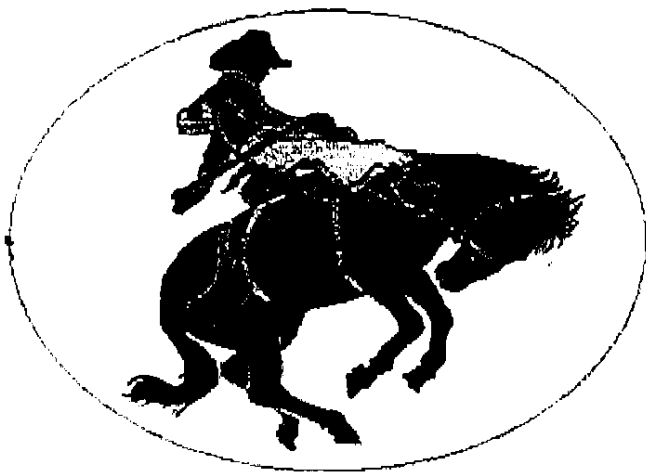
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SAN DIEGO INDEPENDENT SCHOOL DISTRICT
2002-2003 Budget Proposal
3rd Budget Workshop
August 15, 2002

GENERAL FUND REVENUE	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
LOCAL	1,908,035	1,649,982	2,031,808	1,499,982	1,364,907
STATE	8,175,000	7,941,613	8,207,889	7,786,613	7,665,245
RET. IN-KIND	325,000	365,000	333,130	356,280	348,597
TOTAL	10,408,035	9,956,595	10,572,827	9,642,875	9,378,749

EXPENDITURES:

6100-PAYROLL	7,313,915	7,045,750	7,046,313	6,787,731	6,433,129
6200-PURCHASE/CONT'D	1,110,625	997,610	897,561	910,460	977,259
6300-SUPPLIES/MATERIALS	1,045,025	920,425	875,764	853,975	826,660
6400-MISC EXPENSE	455,882	253,150	406,971	216,750	192,129
6500-DEBT SERVICE	200,000	517,178	0	603,425	605,602
6600-CAPITAL OUTLAY	282,475	222,263	36,043	226,920	214,219
8000-OTHER USES	0	0	0	0	0
TOTAL	10,407,922	9,956,376	9,262,652	9,599,261	9,248,998

211-TITLE I PART A

SCHOOLWIDE

REVENUE

FEDERAL	629,777	503,953	503,953	457,036	540,771
TOTAL	629,777	503,953	503,953	457,036	540,771

EXPENDITURES

6100-PAYROLL	574,777	470,564	470,564	398,341	495,533
6200-PURCHASE/CONT'D	35,000	9,191	9,191	21,191	10,993
6300-SUPPLIES/MAT'L'S	16,000	15,216	15,216	28,142	24,264
6400-MISC EXPENSE	4,000	3,257	3,257	3,637	4,256
8000-INDIRECT COST	0	5,725	5,725	5,725	5,725
TOTAL	629,777	503,953	503,953	457,036	540,771

211-TITLE I, PART D, SUBPART 2

- NEGLECTED/DELINQUENT

REVENUE

FEDERAL	17,221
TOTAL	17,221

EXPENDITURES:

6100-PAYROLL	16,000
6300-SUPPLIES/MAT'L'S	1,221
TOTAL	17,221

	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
212-TITLE 1,PART C MIGRANT					
REVENUE					
FEDERAL	47,076	47,349	47,349	34,154	37,904
TOTAL	47,076	47,349	47,349	34,154	37,904
EXPENDITURES:					
6100-PAYROLL	29,576	36,849	41,665	28,154	33,632
6200-PURCHASE/CONTD	2,500	3,000	1,155	2,500	2,733
6300-SUPPLIES/MATL'S	14,500	7,000	4,586	3,000	1,039
6400-MISC. EXPENSE	500	500	250	500	500
8000-FLOW THRU	0	0	0	0	527
TOTAL	47,076	47,349	47,656	34,154	37,904
240-CAFETERIA					
REVENUE					
LOCAL	144,100	154,725			
STATE	7,900	8,076			
FEDERAL	595,950	583,500	737,500	672,265	634,894
TOTAL	747,950	746,301			
EXPENDITURES:					
6100-PAYROLL	254,250	246,850	246,850	231,150	229,928
6200-PURCHASE/CONTD	64,000	43,500	43,500	43,500	41,500
6300-SUPPLIES/MATL'S	405,200	420,650	420,650	334,545	287,349
6400-MISC EXPENSE	2,400	1,500	1,500	0	0
660-CAPITAL OUTLAY	21,000	25,000	25,000	22,000	20,000
TOTAL	746,850	737,500	737,500	631,195	578,777
244-VOC ED BASIC GRANT					
REVENUE					
FEDERAL	28,373	25,288	25,288	23,596	27,900
TOTAL	28,373	25,288	25,288	23,596	27,900
EXPENDITURES:					
6100-PAYROLL	0	0	0	0	0
6200-PURCHASE/CONTD	0	0	0	0	0
6300-SUPPLIES/MATL'S	26,873	23,208	23,208	21,569	26,105
6400-MISC EXPENSE	1,500	1,500	1,500	1,500	1,500
8000-INDIRECT COST	0	580	580	527	295
TOTAL	28,373	25,288	25,288	23,596	27,900

	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
255-TITLE II PART A					
CLASS SIZE REDUCTION					
REVENUE					
FEDERAL	138,286	86,644	70,705	68,372	68,372
TOTAL	138,286	86,644	70,705	68,372	68,372
EXPENDITURES:					
6100-PAYROLL	96,000	86,644	70,705	68,372	68,372
6200-CONTRACTED SERVICES	37,000	0	0	0	0
6300-SUPPLIES/MATERIALS	5,286	0	0	0	0
TOTAL	138,286	86,644	70,705	68,372	68,372
262-TITLE II PART D,					
TECHNOLOGY					
REVENUE					
FEDERAL	18,226				
TOTAL	18,226				
EXPENDITURES:					
6200-CONTRACTED SERVICES	12,600				
6300-SUPPLIES/MATERIALS	5,626				
TOTAL	18,226				
269-TITLE V, PART A,					
INNOVATIVE					
REVENUE					
FEDERAL	12,374	13,240	13,240	15,311	11,873
TOTAL	12,374	13,240	13,240	15,311	11,873
EXPENDITURES:					
6100-PAYROLL	0	0	0	0	0
6200-PURCHASE/CONT'D	0	3,048	3,048	3,048	6,640
6300-SUPPLIES/MAT'L'S	12,374	4,147	4,147	3,000	3,000
6400-MISC EXPENSE	0	0	0	0	0
6600-CAPITAL OUTLAY	0	6,045	6,045	9,263	2,233
TOTAL	12,374	13,240	13,240	15,311	11,873

	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
313-IDEA B FORMULA REVENUE					
FEDERAL	408,739	353,218	353,218	261,350	219,648
EXPENDITURES:					
6100-PAYROLL	267,636	227,886	115,278	103,000	91,822
6200-PURCHASE/CONTD	73,500	35,000	9,847	6,000	1,568
6300-SUPPLIES/MATERIALS	25,604	68,832	7,823	10,500	8,702
6400-TRAVEL/MISCELLANEOUS	11,000	11,500	5,170	7,500	2,940
6600-CAPITAL OUTLAY	31,000	10,000	3,085	4,000	3,000
8000-FLOW THRU	0	0	113,239	130,350	111,616
TOTAL	408,740	353,218	254,442	261,350	219,648

314-IDEA PRESCHOOL REVENUE					
FEDERAL	16,964	25,495	25,495	22,400	17,035
TOTAL	16,964	25,495	25,495	22,400	17,035

EXPENDITURES:					
6100-PAYROLL	7,724	14,573	9,084	9,000	12,714
6200-PURCHASE/CONTD	0	4,370	0	0	1,247
6300-SUPPLIES/MATL'S	6,241	3,852	0	0	974
6400-MISC EXPENSE	3,000	2,700	665	800	2,100
8000-FLOW THRU	0	0	6,672	12,600	0
TOTAL	16,965	25,495	16,421	22,400	17,035

326-RESPECT & PROTECT REVENUE					
STATE		24,712	24,712	24,712	
TOTAL					

EXPENDITURES:					
6100-PAYROLL		0	0	0	
6200-PURCHASE/CONTD		24,472	24,472	24,472	
6300-SUPPLIES/MATERIALS		0	0	0	
6400-TRAVEL/MISCELLANEOUS		0	0	0	
8000-FLOW THRU		240	240	240	
TOTAL		24,712	24,712	24,712	

	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
382-TANF					
REVENUE					
STATE	98,612	87,912	47,926	47,926	
TOTAL	98,612	87,912	47,926	47,926	
EXPENDITURES:					
6100-PAYROLL	87,912	87,912	35,626	35,626	
6200-PURCHASE/CONTD	0	0	0	0	
6300-SUPPLIES/MATERIALS	10,500	10,500	5,500	5,500	
6400-TRAVEL/MISCELLANEOUS	200	200	0	0	
6600-CAPITAL OUTLAY	0	0	6,800	6,800	
TOTAL	98,612	98,612	47,926	47,926	
393-TEXAS SUCCESS SCH PROG					
REVENUE					
STATE		600	600	3,060	
TOTAL		600	600	3,060	
EXPENDITURES:					
6300-SUPPLIES/MATERIALS		600	600	3,060	
TOTAL		600	600	3,060	
401-EXTENDED OPTIONAL YEAR					
REVENUE					
STATE	37,766	37,766	37,766	42,800	42,115
TOTAL	37,766	37,766	37,766	42,800	42,115
EXPENDITURES:					
6100-PAYROLL	23,238	23,238	23,238	20,535	20,000
6200-CONTRACTED SERVICES	2,500	2,500	2,500	5,150	8,752
6300-SUPPLIES/MATERIALS	12,028	12,028	12,028	17,115	9,363
6600-CAPITAL OUTLAY	0	0	0	0	4,000
TOTAL	37,766	37,766	37,766	42,800	42,115
404-ACC. READING INITIATIVE					
REVENUE					
STATE	66,000	66,000	48,000	48,000	
TOTAL	66,000	66,000	48,000	48,000	
EXPENDITURES:					
6100-PAYROLL	12,015	12,015	31,500	31,500	
6200-CONTRACTED SERVICES	3,600	3,600	10,000	10,000	
6300-SUPPLIES/MATERIALS	33,885	33,885	6,000	6,000	
6400-TRAVEL/MISCELLANEOUS	2,500	2,500	500	500	
6600-CAPITAL OUTLAY	14,000	14,000	0	0	
TOTAL	66,000	66,000	48,000	48,000	

	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
411-TECHNOLOGY					
REVENUE					
STATE	43,280	43,280	43,280	43,280	45,500
	43,280	43,280	43,280	43,280	45,500
EXPENDITURES:					
6200-PURCHASE/CONT'D	0	0	0	0	24,000
6300-SUPPLIES/MAT'L'S	43,280	43,280	43,280	43,280	13,500
6600-CAPITAL OUTLAY	0	0	0	0	8,000
TOTAL	43,280	43,280	43,280	43,280	45,500

413-TIFGRANTPS10					
REVENUE					
STATE		100,000	100,000	0	80,000
LOCAL		10,000	10,000	0	0
TOTAL		110,000	110,000	0	80,000
EXPENDITURES:					
6600-CAPITAL OUTLAY		110,000	110,000	0	80,000
TOTAL		110,000	110,000	0	80,000

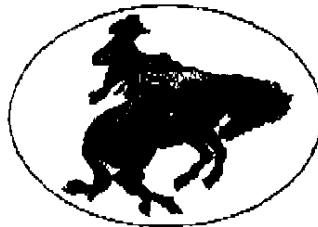
415 PRE-KINDER					
REVENUE					
STATE	139,222	139,222	139,222	3,880	
TOTAL	139,222	139,222	139,222	3,880	
EXPENDITURES:					
6100-PAYROLL	85,364	85,364	85,364	2,880	
6200-PURCHASE/CONT'D	0	0	0	1,000	
6300-SUPPLIES/MATERIALS	46,358	46,358	46,358	0	
6400-TRAVEL/MISCELLANEOUS	7,500	7,500	7,500	0	
TOTAL	139,222	139,222	139,222	3,880	

	2002-2003	2001-2002	2001-2002 Actual	2000-2001	1999-2000
459-SP ED CO-OP					
REVENUE					
CO-OP	71,300	71,300	71,300	164,406	164,406
TOTAL	71,300	71,300	71,300	164,406	164,406
EXPENDITURES:					
6100-PAYROLL	0	0	0	121,706	121,706
6200-PURCHASE/CONT'D	59,800	59,800	59,800	32,900	32,900
6300-SUPPLIES/MAT'L'S	5,500	5,500	5,500	9,800	9,800
6400-MISC EXPENSE	6,000	6,000	6,000	0	0
6600-CAPITAL OUTLAY	0	0	0	0	0
TOTAL	71,300	71,300	71,300	164,406	164,406
599-DEBT SERVICE					
REVENUE					
STATE	340,898	320,108	498,871	330,757	
LOCAL I & S	116,000	19,794	132,533	0	
TOTAL	456,898	339,902	631,404	330,757	
EXPENDITURES:					
6500-DEBT SERVICE	454,531	395,000	614,398	400,000	
TOTAL	454,531	395,000	614,398	400,000	
699-CAPITAL PROJECTS					
REVENUE					
LOCAL	100,000	98,920	262,381	100,000	
7900-SALE OF BONDS	3,000,000	3,297,350	3,310,549		
TOTAL	3,100,000	3,396,270	3,572,930	100,000	
EXPENDITURES:					
6200-CONTRACTED SERVICES	10,341,079	600,000	4,866,407	0	
TOTAL	10,341,079	600,000	4,866,407	0	
GRAND TOTAL REVENUE	16,486,099	15,939,735	16,203,902	11,306,143	10,554,273
GRAND TOTAL EXPEND.	23,723,599	12,600,243	11,933,748	11,862,967	11,003,299

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RE: Resend
MP: Multi-Poll
RM: Receive to Memory
HP: Host Print
HR: Host Receive

PD: Pollled by Remote
PG: Polling a Remote
DR: Document Removed
FO: Forced Output
FM: Forward Mailbox Doc.

MB: Receive to Mailbox
PI: Power Interruption
TM: Terminated by user
WT: Waiting Transfer
WS: Waiting Send

SAN DIEGO INDEPENDENT SCHOOL DISTRICT

September 18, 2002

Andy Gruber, Selective Reviewer
Universal Service Administrative Company (E-rate 5)
80 South Jefferson Road
Whippany, NJ 07981

Dear Mr. Gruber:

The reason our expenditures exceed our revenues is because the money received for capital projects was received last year. That money is in our fund balance. Our fund balance as of August 31, 2001 is \$4,826,409. We are in the process of selling our bonds and that should be an additional \$3,000,000 in revenue.

If you need anything further, please feel free to call me at extension 2226.

Respectfully,



Alma Iris Casas
Director of Finance

609 LABBE • SAN DIEGO, TEXAS • 78384
PHONE: (361) 279-3382 • FAX: (361) 279-2267